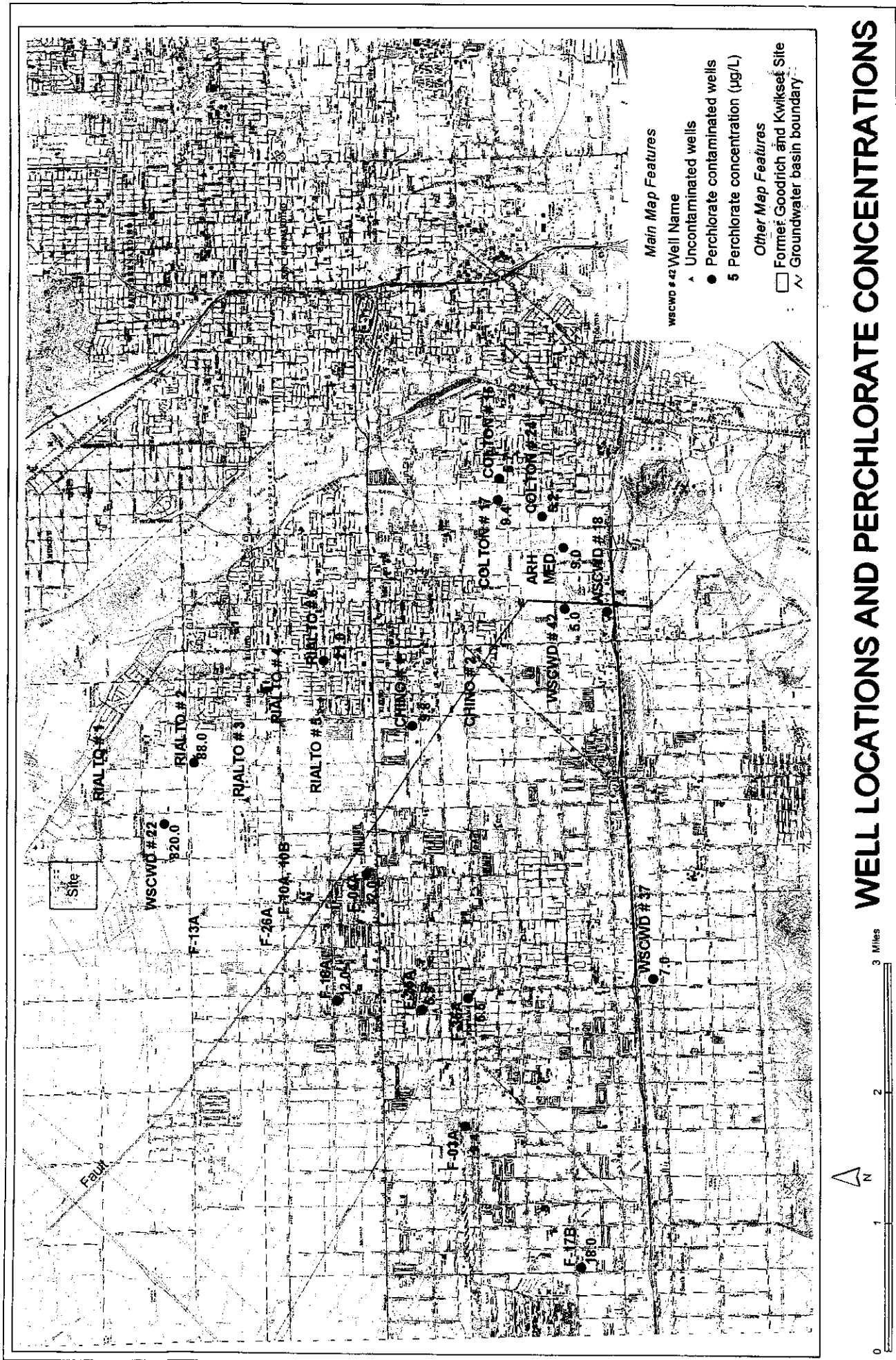


# **ATTACHMENT 1**

## Well Location Map



## **ATTACHMENT 2**

Description of APE – West Corporate History:  
Correspondence dated September 20, 2002



ATTORNEYS • LLP  
ESTABLISHED 1926

555 CAPITOL MALL  
10TH FLOOR  
SACRAMENTO, CA 95814-4686  
TELEPHONE: (916) 441-0131  
FAX (916) 441-4021

September 20, 2002

VIA FACSIMILE TO (909) 781-6288  
AND BY FIRST CLASS MAIL

Kurt V. Berchtold  
Assistant Executive Officer  
California Regional Water Quality Control Board - Santa Ana Region  
3737 Main Street, Suite 500  
Riverside, California 92501-3348

Re: Our Client: American Promotional Events - West, Inc.

Dear Mr. Berchtold:

Thank you for agreeing to meet with representatives of our office and our client, American Promotional Events - West, Inc. ("APE-West"), to discuss your agency's investigation of perchlorate contamination in groundwater within the Rialto and Colton Subbasins. In advance of our meeting at your offices on September 23, 2002 at 1:30 p.m., we are providing you with background information regarding our client's activities in the Rialto area since it first began doing business in California in 1989 and a summary of actions regarding our client taken by your agency and Mr. Groveman's office under the name of the Inland Empire Perchlorate Regulatory Task Force ("Task Force").

As you are aware, our office has provided your agency with over 2,400 pages of documents in response to two subpoenas the Regional Board directed to APE-West in July of 2002. Although those subpoenas were related to the Clean-up and Abatement Order issued to Goodrich Corporation and Kwikset Corporation, which has now been rescinded, our client consents to the Regional Board retaining the documents for the time being and reviewing them in the context of the ongoing investigation of the regional groundwater perchlorate problem. Many of the facts which we will discuss below are substantiated by the documents provided in response to the subpoenas.

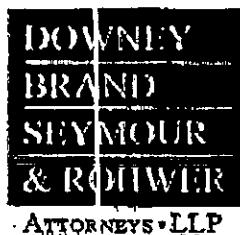
By way of background information, APE-West has done business in California since early 1989. APE-West imports, distributes and wholesales safe and sane consumer fireworks in California. These fireworks are regulated by both the California State Fire Marshal and the United States Consumer Products Safety Commission. APE-West does not, and has never, manufactured fireworks in

KATHARINE E. WAGNER  
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(916) 441-0131, X6111

C: GJT

C: Aes/ks

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## FACSIMILE TRANSMISSION

(916) 441-0131, X6311

DATE: September 20, 2002

TO:

NAME	FAX NO.	PHONE NO.
Kurt V. Berchtold Assistant Executive Officer	(909) 781-6288	(909) 782-4430
Gerard Thibeault, Esq. California Regional Water Quality Control Bd., Santa Ana Region		
Jorge A. León, Esq.	(916) 341-5199	(916) 341-5180

FROM: Katharine E. Wagner PHONE: (916) 441-0131, x6311

RE: American Promotional Events-West, Inc.

OPERATOR:

FILE NO.: 32786.00000	NUMBER OF PAGES, INCLUDING COVER: - 8 -
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MESSAGE:

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IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE PHONE (916) 441-0131 AS SOON AS POSSIBLE.

- On September 30, 1988, Pyrodyne American Corporation acquired the Assets of Pyrodyne Corp. of Washington. At that time Pyrodyne Corp. of Washington had limited operations in California. These operations were not related to Pyrotronics Corporation, nor were they located in the Rialto area.
- Pyrodyne American Corp., its predecessors and successors, have no relationship to Clipper Pyrotechnics, Apollo Manufacturing, United Fireworks Manufacturing Company or the Red Devil Fireworks Company. These entities were all related to Pyrotronics Corporation. Pyrotronics Corporation filed for bankruptcy in 1986, via a Chapter 11 proceeding, and assets were sold off to various purchasers through bankruptcy court proceedings. A portion of Pyrotronics' assets were sold to David Seto. Mr. Seto and Victor Kwan then apparently formed a corporation named RDF Holding, Inc. We have provided copies of documents which our office obtained from the Pyrotronics bankruptcy court file in response to the subpoena. (We do not have any documents showing final transactions after Bankruptcy Court approval of Mr. Seto's acquisition or anything subsequent before RDF Holding's asset sale to our client.)
- In late 1988, after Pyrodyne American closed the acquisition of Pyrodyne Corp., David Seto approached Pyrodyne American seeking to sell it certain assets of RDF Holding. On January 20, 1989, Pyrodyne American Corp. closed the purchase of certain assets of RDF Holding Corp. We have provided a copy of that Asset Purchase Agreement in response to the subpoena. The sale included, among others, the trademark for "Red Devil Fireworks." The asset purchase did not include any real property. Pyrodyne American Corp. took possession of file cabinets and desks which were part of the assets purchased from RDF Holding. It discovered documents apparently abandoned by Pyrotronics Corporation and RDF Holding. Some of those documents remained in storage and have been produced in response to the Regional Board's subpoena.
- At no time has APE-West or its predecessors owned any of the approximately 160 acres of real property in Rialto which is at issue in the Regional Board's inquiry. Pyrotronics Corporation, which had owned the property in the 1960's and 1970's, sold off various parcels of this land prior to and during the bankruptcy proceedings. It is our understanding that the present owner of the property at 3196 North Locust purchased it out of the bankruptcy sale of Pyrotronics' assets, or acquired it from those who purchased it out of the bankruptcy.
- APE-West and its predecessors have leased a portion of the property at 3196 North Locust from its current owner since January of 1989. The lease covers approximately 100,000 square feet of warehouse and office

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Page 2

California. APE-West also has no involvement in either display fireworks or industrial pyrotechnics. APE-West does not own any property in the area in question. It leases warehouse space and office facilities in the Rialto area for fireworks storage and also for the storage of fireworks stands and related sales aids. APE-West's main office and a smaller warehouse facility are located in Fullerton, California.

It is our understanding that the Regional Board and the Task Force identified APE-West as a potential source of perchlorate contamination based upon an MSDS on file with the San Bernardino County Fire Department. APE-West provided the MSDS to the fire department as a part of the Department's requested Hazardous Materials Business Plan. Perchlorate is a component of certain safe and sane consumer fireworks. However, as discussed in more detail below, the perchlorate in consumer safe and sane fireworks is in a solid state, sealed inside the firework. The fireworks, in turn, are sealed in either a plastic bag or a shrink-wrapped box in their country of manufacture. Those sealed containers are then imported into the United States and stored on a temporary basis in Rialto. With very limited exception, that sealed packaging is not opened until the firework is sold to the consumer.

Although the MSDS only references the presence of perchlorate in some form at APE-West's facilities, the Regional Board and the Task Force erroneously came to the conclusion that APE-West manufactured fireworks at the Rialto facility and also was a landowner. Both of these statements are incorrect.

In order to clear up factual information and provide the Regional Board with an accurate history of APE-West's activities in the Rialto area, we provide the following history.

#### HISTORY OF APE-WEST

- APE-West's predecessor, American Pyrodyne Corporation, an Alabama Corporation, was organized in December of 1987. Neither American Pyrodyne, nor any related corporate entity, did business in California at that time. Further, neither American Pyrodyne, nor any related entity, had previously done business in California. American Pyrodyne was formed for the express purpose of the future acquisition of the assets of Pyrodyne Corporation of Washington.
- American Pyrodyne Corp. changed its name to Pyrodyne American Corp. on September 9, 1988. Pyrodyne American Corp. remained an Alabama Corporation. At this time it had yet to acquire the assets of Pyrodyne Corp. of Washington.

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corporate filings for Ohio and California indicates that a company known as United Fireworks Mfg. Co., Inc. was incorporated as early as 1962 and merged into Pyrotechnics Corporation in 1969, dissolving as a separate corporation at that time. In late 1998 or early 1999, a sister company of APE-West purchased certain assets of a different Ohio fireworks company which did business under the name United Fireworks. That entity is unrelated to the company which merged into Pyrotechnics Corporation 30 years earlier.

- APE-West has no relationship to PyroSpectacular. PyroSpectacular is a neighboring tenant on the property at 3196 North Locust.
- Since APE-West and its predecessors began operating at the leased site, it has never had any fire, explosion or accidental chemical release. To our knowledge, there have never been any fire emergency calls to the APE-West leased premises.

#### ACTIONS OF REGIONAL BOARD/PERCHLORATE TASK FORCE

Based only on information from the MSDS and anecdotal data, the Task Force directed a letter to American Promotional Events dated June 26, 2002 requesting the presence of company representatives at a meeting on July 15, 2002 to discuss the perchlorate contamination issue. This letter arrived on June 28, 2002, which coincided with the opening of the fireworks sales season, our client's busiest time of the year.

On July 3, 2002, the Task Force and Senator Nell Soto, in an act of political grandstanding, held a press conference and issued a press release which identified APE-West as one of a group of "suspected polluters" which were to receive subpoenas. In a precursor to future Task Force tactics, the press release also threatened legal action against any party which might attempt to delay Task Force activities. Thus, in the span of six days our client went from its first minimal notice of the Region's perchlorate issue to a public claim that it was a "polluter," receipt of a subpoena and threatened legal action.

The same day Mr. Groveman's office served APE-West with the Regional Board's subpoena referenced at the press conference. The subpoena, also dated July 3, 2002, requested the production of 50 categories of documents which potentially covered tens of thousands of documents stretching back to "the beginning of time." Many of the requests were duplicative and extremely overbroad. The subpoena provided 20-days for a response, again coinciding with our client's busiest time of the year. That subpoena was followed 7-days later by another subpoena seeking 7 more categories of documents.



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buildings at the site. Its terms limit APE-West's use of the premises to the "storage of fireworks, general merchandise and related materials and equipment and for offices for the conduct of its business and for no other purposes...." The lease also provides APE-West with a revocable license to use portions of the adjacent parking lots and land. We have previously provided the Regional Board with a copy of the property lease; and several amendments extending its term.

- On February 2, 1990, Pyrodyne American Corp. changed its name to American West Marketing, Inc., an Alabama Corporation.
- On January 20, 1995 American Promotional Events was incorporated in California. On February 1, 1995, American West Marketing, Inc., was merged into American Promotional Events, Inc. American Promotional Events was the surviving corporation.
- On March 28, 2002, American Promotional Events Inc. changed its name to American Promotional Events, Inc. - West ("APE-West").
- APE-West and its predecessors do not, and have never, manufactured fireworks in California. As evidenced by the documents we have provided to the Regional Board, APE - West and its predecessors have never possessed a fireworks manufacturer's license from the California State Fire Marshal.
- APE-West imports all of its Safe and Sane fireworks from manufacturing facilities outside of the United States. These manufacturers are primarily located in China. When manufactured the fireworks are labeled with the required California State Fire Marshal and Consumer Products Safety Commission seals and then shrink wrapped or sealed in a plastic bag by individual item or in assortments. The fireworks are then imported to the United States via the Port of Long Beach where they are inspected by U.S. Customs and State Fire Marshal officials and then shipped to Rialto. While a very small amount of the fireworks are removed from their sealed packaging at Rialto for safety testing, the vast majority of the packaging is not opened until the fireworks are used by the ultimate purchaser. Per California law, unsold merchandise is returned to APE-West for storage. In some instances, that returned product is removed from its shrink-wrapped container for repackaging. However, the amount of product repackaged is small and the chemical product of the firework is not disturbed.
- APE-West does not do business under the name of United Fireworks and is unrelated to any entity historically operating under that name (or any similar name) in Rialto. A search of the databases containing official

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agencies to create the Inland Empire Perchlorate Task Force. This agreement was subsequently revised to drop reference to the Task Force and provide for a coordinated investigation of the perchlorate contamination issue. The Regional Board adopted the agreement at its meeting on September 13, 2002.

As you can see from the information set forth above, APE-West's limited activities in the Rialto area do not justify the aggressive actions taken against it by the Task Force and the Regional Board staff. Although we have not had an opportunity to review the transcripts of the depositions taken by counsel for Kwikset during the week of September 3, 2002, it is our understanding from Kwikset's counsel that the testimony will substantiate that Regional Board staff has conducted minimal investigation regarding APE-West's activities and does not have any evidence to justify its actions toward APE-West.

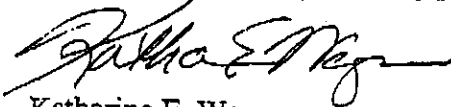
We have also presented this information so you may understand the expense our client has incurred to respond to the unnecessary tactics of the Task Force and the Regional Board and our client's frustration at the lack of any real dialogue with the Regional Board staff or any substantiation for its allegations.

It is our hope that all parties may use the meeting of September 23, 2002 to open lines of communication in both directions and for an exchange of information which will truly assist the Regional Board in investigating the ground water contamination and moving toward a resolution for the betterment of all parties concerned.

We look forward to those discussions.

Very truly yours,

DOWNEY, BRAND, SEYMOUR & ROHWER LLP



Katharine E. Wagner

KEW:cdl  
473418.1

cc: Gerard J. Thibeault  
Tad Trout  
Daniel J. Coyle  
Jorge León

Kurt V. Berchtold  
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We then attended the July 15, 2002 Task Force meeting. Rather than an exchange of information, the meeting was a blanket damnation of the PRP's present. The PRP's were given 30-days to submit a good faith proposal with financial assurances to the Task Force in support of a voluntary settlement, which was requested to include a plan for providing a full replacement water supply, full indemnities (extending to unknown hazardous materials besides perchlorate), and a wraparound insurance policy. Despite a complete lack of evidence, our client was incorrectly identified as a manufacturer of fireworks. As the evidence above indicates, that is not, and has never been, the case. At this meeting, our client was also presented with a draft lawsuit, which names APE-West as the lead defendant, and was told that this lawsuit would be filed on September 6, 2002 if settlement was not reached. In another political move, the Task Force also threatened legislative hearings.

Given the volume of documents requested under the two subpoenas, our office sought, and received, a brief extension to respond until August 16, 2002. In return for that extension, our client provided your office with an initial production of documents evidencing that APE-West never owned the property in question and did not manufacture fireworks. We also provided a complete corporate history of APE-West. Although our client attempted to confer with Regional Board staff regarding a limit on the scope of the subpoenas, Regional Board staff did not respond to our attempted communications except to acknowledge their intent to speak with us, which then did not occur. Thus, APE-West was forced to gather voluminous documents to respond to the subpoena in a very short period of time. That response was provided pursuant to the provisions of the California Water Code, California Code of Civil Procedure and California Evidence Code as cited in the subpoenas.

At the same time, on August 15, 2002 our office sent a letter to Jorge León, staff counsel to the Regional Board, advising that APE-West would not be submitting a settlement proposal by the Task Force imposed deadline of August 15, 2002. That letter addressed the reasons why a settlement proposal would not be forthcoming.

That letter was met with an August 22, 2002 response from your office and the Task Force which made numerous unfounded allegations of delaying tactics and lack of cooperation by our client and erroneously claimed that APE-West "chose" to produce documents responsive to the subpoena under seal. It was clear from this letter that the Board and the Task Force had not even bothered to review the numerous documents provided by APE-West in response to the subpoena and the informal agreement to provide documents. Our office responded to this harassing letter with a separate letter of August 26, 2002 to Carol Beswick and Mr. Thibeault. Our office has also provided separate correspondence to the Board regarding the proposed agreement between the Regional Board and various water

# **ATTACHMENT 3**

Plot Plan dated May 2001  
(document no. APE 00224)

# LEGEND

C-11 = EXISTING CLARIFIER

UST = Underground Storage Tank

AST = Aboveground Storage Tank

-- = LIMITS OF STUDY AREA



Ref: Aerial Photograph dated 4/23/96.

Project No: IN281.1-1

Date: May, 2001

Figure: A-3

PLOT PLAN  
3196 N. LOCUST AVENUE  
RIALTO, CALIFORNIA

EGA

Consultants

environmental geologic applications

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